

## OUR TERMS

### 1. DEFINITIONS

1.1 When the following words with capital letters are used in these Terms, this is what they will mean:

- (a) **Business Day:** means a day (other than a Saturday, Sunday or public or bank holiday) on which the banks are ordinarily open for business in the City of London;
- (b) **Delivery:** the transfer of physical possession of the Equipment to the you at the Site
- (c) **Deposit:** the deposit amount set out in the Receipt of Order
- (d) **Equipment:** means the items of equipment to be hired by the you as listed in the Order;
- (e) **Event Outside Our Control:** is defined in clause 9.2;
- (f) **Hire Period:** means the period of hire of the Equipment as set out in the Order;
- (g) **Order:** your order for the Services;
- (h) **Receipt of Order:** the written acknowledgement from Us confirming that your Order has been accepted.
- (i) **Site:** the premises as set out in the Order;
- (j) **Services:** the services that We are providing to you as set out in the Receipt of Order, for the avoidance of doubt this will include any Equipment hired by you;
- (k) **Terms:** the terms and conditions set out in this document; and
- (l) **We/Our/Us:** PD Consultants UK Ltd.

1.2 When We use the words "writing" or "written" in these Terms, this will include e-mail unless We say otherwise.

### 2. OUR CONTRACT WITH YOU

2.1 These are the terms and conditions on which We supply Services to you.

2.2 Please ensure that you read these Terms carefully, and check that the details on the Receipt of Order and in these Terms are complete and accurate,. If you think that there is a mistake or require any changes, please contact Us to discuss. We will confirm any changes in writing to avoid any confusion between you and Us.

2.3 When you submit the Order to Us, this does not mean We have accepted your order for Services. Our acceptance of the Order will take place as described in clause 2.4. If We are unable to supply you with the Services, We will inform you of this in writing and We will not process the Order.

2.4 These Terms will become binding on you and Us when We contact you that We are able to provide you with the Services, which We will also confirm in writing to you as a Receipt of Order, at which point a contract will come into existence between you and Us.

2.5 If any of these Terms conflict with any term of the Receipt of Order, the Receipt of Order will take priority.

2.6 We shall assign an order or case number to the Order and inform you of it when We confirm the Order. Please quote the order or case number in all subsequent correspondence with Us relating to the Order.

### **3. CHANGES TO ORDER OR TERMS**

3.1 We may revise these Terms from time to time in the following circumstances:

- (a) changes in how We accept payment from you;
- (b) changes in relevant laws and regulatory requirements

3.2 If We have to revise these Terms under clause 3.1, We will give you at least one month's written notice of any changes to these Terms before they take effect. You can choose to cancel the contract in accordance with clause 10.

3.3 You may make a change to the Order for Services at any time before the start date for the Services by contacting Us. Where this means a change in the total price of the Services, We will notify you of the amended price in writing. You can choose to cancel the Order in accordance with clause 10.1 in these circumstances.

3.4 If you wish to cancel an Order before it has been fulfilled, please see your right to do so in clause 10.

### **4. PROVIDING SERVICES**

4.1 We will supply the Services to you from the date agreed between Us in writing until the estimated completion date set out in the Order.

- 4.2 We will make every effort to complete the Services on time. However, there may be delays due to an Event Outside Our Control. See clause 9 for Our responsibilities when an Event Outside Our Control happens.
- 4.3 We will need certain information from you that is necessary for Us to provide the Services. We will contact you in writing about this. If you do not, after being asked by Us, provide Us with this information, or you provide Us with incomplete or incorrect information, We may make an additional charge of a reasonable sum to cover any extra work that is required, or We may suspend the Services by giving you written notice. We will not be liable for any delay or non-performance, where you have not provided this information to Us after We have asked or have provided any incomplete or inaccurate information. If we suspend the Services under this clause 4.3, you do not have to pay for the Services while they are suspended, but this does not affect your obligation to pay for any invoices We have already sent you.
- 4.4 We may have to suspend the Services if We have to deal with technical problems, or to make improvements agreed between you and Us in writing to the Services. We will contact you to let you know in advance where this occurs, unless the problem is urgent or an emergency. You do not have to pay for the Services while they are suspended under this clause 4.4.
- 4.5 If you do not pay Us for the Services when you are supposed to as set out in clause 7. We may suspend the Services with immediate effect until you have paid Us the outstanding amounts (except where you dispute an invoice under clause 7.5). We will contact you to tell you this. This does not affect Our right to charge you interest under clause 7.4.

## **5. HIRING OF EQUIPMENT**

### **5.1 Equipment hire**

- (a) You shall hire the Equipment from Us subject to these terms and conditions.
- (b) We shall not, other than in the exercise of its rights under these terms and conditions or applicable law, interfere with the your quiet possession of the Equipment.

### **5.2 Hire Period**

The Hire Period shall continue for a period as set out in the Receipt of Order unless it is terminated earlier in accordance with these terms and conditions.

### **5.3 Hire Fee**

- (a) The fee for the Hire Period will be set out in the Receipt of Order and will be paid in advance of the Hire Period.

- (b) The fee is exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by you at the rate and in the manner from time to time prescribed by law.
- (c) All payments to be made by either party under these terms and conditions shall be made without withholding or set-off on account of disputes, counterclaims or for any other reason whatsoever.

#### 5.4 Deposit

- (a) The Deposit is a deposit against default by the You of payment of any Hire Fee or any loss of or damage caused to the Equipment. You shall, on the date of this agreement, pay a deposit in the amount set out in the Receipt of Order to Us. If You fail to make any payments in accordance with the Receipt of Order, or causes any loss or damage to the Equipment (in whole or in part), We shall be entitled to apply the Deposit against such default, loss or damage. You shall pay to the Us any sums deducted from the Deposit within ten (10) Business Days of a demand for the same. The Deposit (or balance thereof) shall be refundable within five (5) Business Days of the end of the Hire Period.

#### 5.5 Delivery

- (a) Delivery of the Equipment shall be made by Us. You shall use all reasonable endeavours to effect Delivery by the date and time agreed between the parties. Title and risk shall transfer in accordance with 5.5.

#### 5.6 Title, risk and insurance

- (a) The Equipment shall at all times remain the property of Us, and you shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to these terms and conditions).
- (b) The risk of loss, theft, damage or destruction of the Equipment shall pass to you on Delivery. The Equipment shall remain at the sole risk of you during the Hire Period until such time as the Equipment is redelivered to Us.
- (c) You shall give immediate written notice to Us in the event of any loss, accident or damage to the Equipment or arising out of or in connection with your possession or use of the Equipment.

#### 5.7 Your responsibilities

- a) You shall during the Hire Period:
  - i. ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed and in accordance with our directions, and operated in a proper manner by trained competent staff in accordance with any operating instructions;

- ii. take such steps (including compliance with all safety and usage instructions provided by Us) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- iii. maintain at its own expense the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the date the Hire Period started (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment;
- iv. make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment without the prior written consent of the Us unless the component(s) is/are replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as practicable) by the same component or by one of a similar make and model or an improved/advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the Equipment shall vest in the Us immediately upon installation;
- v. keep Us fully informed of all material matters relating to the Equipment;
- vi. permit Us or Our duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Site or any premises at which the Equipment may be located, and shall grant reasonable access and facilities for such inspection;
- vii. not, without the prior written consent of Us, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- viii. not without the prior written consent of Us, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to such land or building and you shall repair and make good any damage caused by the affixation or removal of the Equipment from any land or building and indemnify Us against all losses,

costs or expenses incurred as a result of such affixation or removal;

- ix. not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Us in the Equipment and, where the Equipment has become affixed to any land or building, you must take all necessary steps to ensure that We may enter such land or building and recover the Equipment both during the Hire Period and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of Us of any rights such person may have or acquire in the Equipment and a right for Us to enter onto such land or building to remove the Equipment;
- x. not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, you shall notify the Us and you shall at your sole expense use your best endeavours to procure an immediate release of the Equipment and shall indemnify Us on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- xi. not use the Equipment for any unlawful purpose and shall indemnify Us on demand against all losses, costs, charges, damages and expenses incurred as a result of such use;
- xii. ensure that at all times the Equipment remains identifiable as being Our property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;
- xiii. deliver up the Equipment at the end of the Hire Period or on earlier termination it at such address as We require, or if necessary allow Us or our representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment.

5.8 You acknowledge that We shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by you or your officers, employees, agents and contractors, and you undertake to indemnify Us on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by you to comply with these terms and conditions.

**6. IF THERE IS A PROBLEM WITH THE SERVICES**

As a consumer, you have legal rights in relation to Services not carried out with reasonable skill and care, or if the materials We use are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

**7. PRICE AND PAYMENT**

7.1 The price of the Services, and the payment terms, will be set out in the Receipt of Order. And the price of any subsequent or reoccurring Order will be detailed in a new Receipt of Order.

7.2 You acknowledge that the Services will be commenced by Us from the date of initial instruction and therefore if you fail to give any further instructions, within a period exceeding 2 months, you expressly agree to Us retaining any sums already paid.

7.3 The price of the Services, as set out in the Order, shall be exclusive of VAT and any other applicable taxes. If the rate of VAT changes between the date of the Order and the date of delivery or performance, We will adjust the rate of VAT that you pay, unless you have already paid for the Services in full before the change in the rate of VAT takes effect.

7.4 If you do not make any payment due to Us by the due date for payment, We may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate of HSBC Bank Plc from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay Us interest together with any overdue amount.

7.5 However, if you dispute an invoice in good faith and contact Us to let Us know promptly after you have received an invoice that you dispute it, clause 7.4 will not apply for the period of the dispute.

**8. OUR LIABILITY TO YOU**

8.1 If you are a consumer Our maximum aggregate liability arising out of or in connection with the provision of the Services, whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused including by negligence and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of Our obligations under these terms but excluding any liability which falls within the terms of clause 8.5, shall be limited to loss or damage you suffer that is a foreseeable result of Our breach of these Conditions or our negligence, but We are not responsible for any loss or damage that is not foreseeable.

Loss or damage is foreseeable if they were an obvious consequence of the Our breach or if they were contemplated by you and the Company at the time we entered into the Contract.

8.2 If you are a consumer If We are providing Services in your property, We will make good any damage to your property caused by Us in the course of installation or performance. However, We are not responsible for the cost of repairing any pre-existing faults or damage to your property that We discover in the course of installation and/or performance by Us.

8.3 If you are a consumer We only supply the Services for domestic and private use. You agree not to use the Services for any commercial, business or re-sale purpose, and We have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

8.4 If you are a business:

(a) We shall under no circumstances whatever be liable to the you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the provision of the Services; and

(b) Our total liability to the you in respect of all other losses arising under or in connection with the provision of the Services, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid for the provision of the Services

8.5 These terms in no way seek to limit or exclude Our liability to you for:

(a) death or personal injury caused by Our negligence or the negligence of Our employees, agents or subcontractors;

(b) fraud or fraudulent misrepresentation;

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

(d) breach of the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 (description, satisfactory quality, fitness for purpose and samples); and

(e) defective products under the Consumer Protection Act 1987.

## **9. EVENTS OUTSIDE OUR CONTROL**

9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under these Terms that is caused by an Event Outside Our Control.



- 9.2 An Event Outside Our Control means any act or event beyond Our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.
- 9.3 If an Event Outside Our Control takes place that affects the performance of Our obligations under these Terms:
- (a) We will contact you as soon as reasonably possible to notify you; and
  - (b) Our obligations under these Terms will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects Our performance of Services to you, We will restart the Services as soon as reasonably possible after the Event Outside Our Control is over.
- 9.4 You may cancel the contract if an Event Outside Our Control takes place and you no longer wish Us to provide the Services. Please see your cancellation rights under clause 10. We will only cancel the contract if the Event Outside Our Control continues for longer than 7 days in accordance with Our cancellation rights in clause 11.

## **10. YOUR RIGHTS TO CANCEL AND APPLICABLE REFUND**

- 10.1 Before We begin to provide the Services, you have the following rights to cancel an Order for Services, including where you choose to cancel because We are affected by an Event Outside Our Control or if We change these Terms under clause 3.1 to your material disadvantage:
- (a) If you are a consumer You may cancel any Order for Services at any time before the start date for the Services or within 7 calendar days of placing an Order ('cooling off period') by contacting Us. We will confirm your cancellation in writing to you. If you require the provision of the Services to start during the cooling off period you hereby expressly agree that you will not have the right to cancel the Services by giving a notice of cancellation to Us.
  - (b) If you cancel an Order under clause 10.1(a) and you have made any payment in advance for Services that have not been provided to you, We will refund these amounts to you.
  - (c) However, if you cancel an Order for Services under clause 10.1(a) and We have already started work on your Order by that time, you will pay Us any costs We reasonably incurred in starting to fulfil the Order, and this charge will be deducted from any refund that is due to you or, if no refund is due to you, invoiced to you. We will tell you what these costs are when you

contact Us. However, where you have cancelled an Order because of Our failure to comply with these Terms (except where We have been affected by an Event Outside Our Control), you do not have to make any payment to Us.

10.2 Once We have begun to provide the Services to you, you may cancel the contract for Services with immediate effect by giving Us written notice if:

- (a) We break this contract in any material way and We do not correct or fix the situation within 7 days of you asking Us to in writing;
- (b) We go into liquidation or a receiver or an administrator is appointed over Our assets;
- (c) We change these Terms under clause 3.1 to your material disadvantage;
- (d) We are affected by an Event Outside Our Control.

10.3 You acknowledge that prior to the commencement of the Services We will be undertaking relevant preparatory work, which will incur costs for Us. If:

- (a) prior to the commencement of the Services you cancel within 48 hours of the commencement we will refund 50% of the price of the Services to you;  
or
- (b) prior to the commencement of the Services you cancel within 24 hours of the commencement no refund of the price of the Services will be made.

10.4 Where the Contract is cancelled by you because of an Event Outside Our Control and We have already started work on your Order by that time you will pay Us any costs We reasonably incurred in starting to fulfil the Order, and this charge will be deducted from any refund that is due to you or, if no refund is due to you, invoiced to you.

## **11. OUR RIGHTS TO CANCEL AND APPLICABLE REFUND**

11.1 If We have to cancel an Order for Services before the Services start:

- (a) We may have to cancel an Order before the start date for the Services, due to an Event Outside Our Control or the unavailability of key personnel or key materials without which We cannot provide the Services. We will promptly contact you if this happens.
- (b) If We have to cancel an Order under clause 11.1(a) and you have made any payment in advance for Services that have not been provided to you, We will refund these amounts to you.
- (c) Where We have already started work on your Order for Services by the time We have to cancel under clause 11.1(a), you will pay Us any costs We reasonably incurred in starting to fulfil the Order, and this charge will be

deducted from any refund that is due to you or, if no refund is due to you, invoiced to you.

- 11.2 Once We have begun to provide the Services to you, We may cancel the contract for the Services at any time by providing you with at least 30 calendar days' notice in writing. If you have made any payment in advance for Services that have not been provided to you, We will refund these amounts to you.
- 11.3 We may cancel the contract for Services at any time with immediate effect by giving you written notice if:
- (a) you do not pay Us when you are supposed to as set out in clause 7. This does not affect Our right to charge you interest under clause 7.4; or
  - (b) you break the contract in any other material way and you do not correct or fix the situation within 7 days of Us asking you to in writing. If We have already started work on your Order by that time, you will pay Us any costs We reasonably incurred in starting to fulfil the Order, and this charge will be deducted from any refund that is due to you or, if no refund is due to you, invoiced to you. We will tell you what these costs are when you contact Us.

## **12. INFORMATION ABOUT US AND HOW TO CONTACT US**

- 12.1 We are a company registered in England and Wales. Our company registration number is 06725264 and Our registered office is at 44-54 Orsett Road, Grays, Essex RM17 5ED.
- 12.2 If you have any questions or if you have any complaints, please contact Us. You can contact Us by telephoning Our customer service team at 01375 440026 or by e-mailing Us at [s.fuller@pdconsultantsuk.co.uk](mailto:s.fuller@pdconsultantsuk.co.uk).
- 12.3 If you wish to contact Us in writing, or if any clause in these Terms requires you to give Us notice in writing (for example, to cancel the contract), you can send this to Us by e-mail, by hand, or by pre-paid post to PD Consultants UK Limited at [s.fuller@pdconsultantsuk.co.uk](mailto:s.fuller@pdconsultantsuk.co.uk). We will confirm receipt of this by contacting you in writing. If We have to contact you or give you notice in writing, We will do so by e-mail, by hand, or by pre-paid post to the address you provide to Us in the Order.

## **13. HOW WE MAY USE YOUR PERSONAL INFORMATION**

- 13.1 We will use the personal information you provide to Us to:
- (a) provide the Services;
  - (b) process your payment for such Services; and

- (c) inform you about similar products or services that We provide, but you may stop receiving these at any time by contacting Us.

13.2 You agree that We may pass your personal information to our sub contractors in order to provide the Services to you.

13.3 You agree that We may pass your personal information to credit reference agencies and that they may keep a record of any search that they do.

13.4 We will not give your personal data to any other third party.

#### **14. OTHER IMPORTANT TERMS**

14.1 We may transfer Our rights and obligations under these Terms to another organisation, and We will always notify you in writing if this happens, but this will not affect your rights or Our obligations under these Terms.

14.2 You may only transfer your rights or your obligations under these Terms to another person if We agree in writing.

14.3 This contract is between you and Us. No other person shall have any rights to enforce any of its terms.

14.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

14.5 If We fail to insist that you perform any of your obligations under these Terms, or if We do not enforce Our rights against you, or if We delay in doing so, that will not mean that We have waived Our rights against you and will not mean that you do not have to comply with those obligations. If We do waive a default by you, We will only do so in writing, and that will not mean that We will automatically waive any later default by you.

14.6 These Terms are governed by English law. You and We both agree to submit to the non-exclusive jurisdiction of the English courts. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.